

109TH CONGRESS  
1ST SESSION

# H. R. 3524

To authorize the Secretary of Homeland Security to make grants to encourage community safety by incorporating disaster mitigation and emergency preparedness into comprehensive land use planning and urban development, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 28, 2005

Mr. BLUMENAUER (for himself and Mr. WELDON of Pennsylvania) introduced the following bill; which was referred to the Committee on Homeland Security, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To authorize the Secretary of Homeland Security to make grants to encourage community safety by incorporating disaster mitigation and emergency preparedness into comprehensive land use planning and urban development, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Safe Communities Act  
5       of 2005”.

1 **SEC. 2. FINDINGS.**

2 The Congress finds the following:

3 (1) Land use and public facility planning at  
4 both the State and local levels have not had ade-  
5 quate financial resources to fully incorporate the  
6 threats posed both by natural and human-caused  
7 disasters, including acts of terrorism. Too frequently  
8 this has resulted in costly disaster relief programs  
9 and piecemeal, ad hoc security responses, such as  
10 unattractive physical barriers that disrupt and ad-  
11 versely impact the physical, social, economic, and  
12 civic lives in United States communities.

13 (2) Although land use planning is rightfully  
14 within the jurisdiction of State and local govern-  
15 ments, encouraging community safety by incor-  
16 porating disaster mitigation and emergency pre-  
17 paredness into comprehensive land use planning and  
18 urban development should be supported by the Fed-  
19 eral Government and State governments.

20 (3) Disaster response and relief efforts impose  
21 significant costs to United States taxpayers. Federal  
22 expenditure is heavily weighted to post-disaster re-  
23 covery, rather than mitigation. Planning should be  
24 undertaken to prevent property damage and human  
25 casualties, proactively incorporating mitigation strat-  
26 egies and methods from the professional fields of

1 urban, community, and regional planning (including  
2 transportation and land use), architecture, landscape  
3 architecture, and urban design.

4 (4) Disaster planning has traditionally been bi-  
5 ased toward facilitating efficient responses and re-  
6 covery, potentially to the detriment of other planning  
7 goals. Comprehensive planning can incorporate a  
8 range of effective practices for reducing risks posed  
9 by natural disasters and terrorist acts. The Federal  
10 Government and States should provide a supportive  
11 climate and statutory context for comprehensive  
12 planning.

13 (5) Many States have land use statutes that do  
14 not currently support comprehensive planning for  
15 safe communities, and many States are undertaking  
16 efforts to update and reform statutes to better en-  
17 able planning efforts that incorporate long-term haz-  
18 ard mitigation and emergency preparedness.

19 (6) Efforts to coordinate State and regional in-  
20 vestments, including at-risk public infrastructure,  
21 with local plans require additional State level plan-  
22 ning.

23 (7) Comprehensive urban planning takes into  
24 account the relationship between land use, transpor-  
25 tation systems, water and wastewater facilities, open

1 space, and other critical infrastructure in promoting  
2 safe and economically viable communities.

3 (8) Local governments should integrate safety  
4 considerations into comprehensive planning efforts.

5 (9) Safe housing is an essential component of  
6 safe community development, and comprehensive  
7 planning should incorporate modern, scientific plan-  
8 ning techniques to ensure that a broad range of safe  
9 housing options are available to all members of the  
10 Nation's communities.

11 (10) Prevailing land use patterns often place  
12 people, structures, and environmental systems at  
13 great risk. Poorly-regulated rural communities and  
14 small towns located on the metropolitan fringe often  
15 face significant growth pressures, resulting in hap-  
16 hazard development patterns that do not incorporate  
17 regional impacts on critical disaster-reduction sys-  
18 tems, such as open space and wetlands.

19 (11) The Federal Government and State gov-  
20 ernments should support the efforts of tribal govern-  
21 ments and Native Hawaiian organizations to imple-  
22 ment land use planning and community development  
23 to improve the safety of housing and socioeconomic  
24 conditions for Indian tribes and Native Hawaiians.

1 **SEC. 3. SAFE COMMUNITIES PLANNING GRANTS.**

2 (a) GRANT PROGRAM AUTHORIZED.—The Secretary  
3 of Homeland Security shall establish a program to provide  
4 grants to States and local governments for the purpose  
5 of assisting in—

6 (1) the development or revision of land use  
7 planning statutes, and State or local comprehensive  
8 planning documents, in those States or local govern-  
9 ments that either do not have land use planning  
10 statutes, or have inadequate or outmoded land use  
11 planning statutes and regulations, such that plan-  
12 ning efforts have not adequately incorporated strate-  
13 gies to mitigate natural and human-caused hazards,  
14 including acts of terror, or otherwise hinder coordi-  
15 nation of comprehensive planning and emergency  
16 preparedness efforts;

17 (2) the creation or revision of State land use  
18 planning statutes and local comprehensive land use  
19 plans or plan elements in those States or local gov-  
20 ernments that have land use planning statutes that  
21 incorporate risk-reduction and natural and human-  
22 caused hazard mitigation; and

23 (3) the development or revision of comprehen-  
24 sive land use plans or plan elements for multi-State  
25 regions.

1       (b) ELIGIBILITY.—To be eligible to receive a grant  
2 under subsection (a), a State or local planning director  
3 shall submit to the Secretary an application, in such form  
4 as the Secretary may require, that demonstrates to the  
5 Secretary that the basic goals of the State or local govern-  
6 ment regarding land use planning legislation or regulation  
7 are consistent with all of the following guidelines:

8           (1) CITIZEN ENGAGEMENT.—Public notifica-  
9 tion, citizen representation, and stakeholder involve-  
10 ment in a consensus-based, multi-disciplinary plan-  
11 ning process are required in developing, adopting,  
12 and updating land use plans.

13          (2) MULTIJURISDICTIONAL COOPERATION.—In  
14 order to effectively assess the risks posed to commu-  
15 nities by natural hazards and terrorist acts, plan-  
16 ning legislation, comprehensive plans, and regula-  
17 tions are created based on multijurisdictional gov-  
18 ernmental cooperation.

19          (3) MULTI-AGENCY COORDINATION.—In order  
20 to effectively assess the risks posed to communities  
21 by natural hazards and terrorist acts, planning legis-  
22 lation, comprehensive plans, and regulations are cre-  
23 ated based on cooperation between Federal, State,  
24 and local government agencies.

1           (4) IMPLEMENTATION ELEMENTS.—Land use  
2 plans contain an implementation element that—

3           (A) includes a timetable for action and a  
4 definition of the respective roles and respon-  
5 sibilities of agencies, local governments, and  
6 citizens of the State;

7           (B) is consistent with State and local cap-  
8 ital budget objectives; and

9           (C) provides the framework for decisions  
10 relating to the siting of future infrastructure  
11 development, including development of utilities  
12 and utility distribution systems.

13          (5) COMPREHENSIVE PLANNING.—There is  
14 comprehensive planning to encourage land use plans  
15 that incorporate risk assessment and mitigation into  
16 any of State or locally-adopted—

17           (A) comprehensive plans;

18           (B) urban design guidelines;

19           (C) building codes; and

20           (D) transportation plans, addressing both  
21 facility investment and operations.

22          (6) UPDATING.—The State or local government  
23 addresses how comprehensive plans, including land  
24 use plans, urban design guidelines, building codes  
25 and transportation plans, will be updated over time.

1           (7) STANDARDS.—Comprehensive plans reflect  
2           an approach that is consistent with established pro-  
3           fessional planning standards.

4           (c) USE OF GRANT FUNDS.—Grant funds received  
5           by a State or local government under subsection (a) shall  
6           be used for one or more of the following purposes:

7           (1) Developing a comprehensive land use plan  
8           and integrating natural hazard mitigation and secu-  
9           rity plan elements into locally adopted and statewide  
10          comprehensive plans.

11          (2) Assessing, inventorying, or mapping critical  
12          public infrastructure for use in developing land use  
13          and community development policies.

14          (3) Developing geographical information sys-  
15          tems, including technology acquisition, data develop-  
16          ment, modernization, coordination, and technical as-  
17          sistance.

18          (4) Acquiring and developing scenario planning,  
19          risk assessment, or vulnerability analysis technology.

20          (5) Reviewing and updating building codes, zon-  
21          ing, land use regulations, and State-level enabling  
22          legislation.

23          (6) Implementing CPTED (Crime Prevention  
24          Through Environmental Design) initiatives.

1           (7) Assessing risk and vulnerability, particularly  
2       related to land use.

3           (8) Incorporating mitigation and security ele-  
4       ments in transportation plans, facilities, and oper-  
5       ations.

6           (9) Incorporating regional security plans with  
7       regional transportation or land use plans.

8           (10) Encouraging interagency cooperation, par-  
9       ticularly between first-responders and State and  
10      local planning agencies.

11          (11) Identifying natural hazard areas and inte-  
12      grating them into updates of comprehensive plans,  
13      land use regulations, zoning, and building codes.

14      (d) AMOUNT OF GRANT.—The amount of a grant  
15      under subsection (a) shall not exceed \$1,125,000.

16      (e) COST-SHARING.—

17          (1) IN GENERAL.—Except as provided in para-  
18      graph (2), the Federal share of a project funded  
19      with a grant under subsection (a) shall not exceed  
20      90 percent.

21          (2) INCREASED FEDERAL SHARE.—The Sec-  
22      retary may increase the Federal share in the case of  
23      a grant to a tribal government or Native Hawaiian  
24      organization if the Secretary finds that the tribal  
25      government or Native Hawaiian organization does

1 not have sufficient funds to contribute to the  
2 project.

3 (f) COORDINATION.—The Secretary shall encourage  
4 Federal land management agencies to coordinate land use  
5 planning for Federal land with the State or local planning  
6 director responsible for the drafting and updating of State  
7 guide plans or guidance documents regulating land use  
8 and infrastructure development on a statewide basis.

9 (g) AUDITS.—

10 (1) IN GENERAL.—The Inspector General of  
11 the Department of Homeland Security shall conduct  
12 an audit of a portion of the grants provided under  
13 this section to ensure that all funds provided under  
14 the grants are used for the purposes specified in this  
15 section.

16 (2) USE OF AUDIT RESULTS.—The results of  
17 audits conducted under paragraph (1) and any rec-  
18 ommendations made in connection with the audits  
19 shall be taken into consideration in awarding any fu-  
20 ture grant under this section to a State.

21 (h) DEFINITIONS.—In this section, the following defi-  
22 nitions apply:

23 (1) LAND USE PLANNING LEGISLATION.—The  
24 term “land use planning legislation” means a stat-  
25 ute, regulation, executive order or other action taken

1 by a State or local government to guide, regulate,  
2 and assist in the planning, regulation, and manage-  
3 ment of land, natural resources, development prac-  
4 tices, and other activities related to the pattern and  
5 scope of future land use.

6 (2) COMPREHENSIVE PLAN.—The term “com-  
7 prehensive plan” means a binding or non-binding  
8 planning document adopted for the purpose of regu-  
9 lation and management of land, natural resources,  
10 development practices, infrastructure investments,  
11 and other activities related to the pattern and scope  
12 of future land use and urban development.

13 (3) STATE.—The term “State” means any of  
14 the following:

15 (A) One of the 50 States, the District of  
16 Columbia, the Commonwealth of Puerto Rico,  
17 the Virgin Islands, Guam, American Samoa, or  
18 the Commonwealth of the Northern Mariana Is-  
19 lands.

20 (B) A tribal government.

21 (C) A Native Hawaiian organization, as  
22 defined in section 8(a)(15) of the Small Busi-  
23 ness Act (15 U.S.C. 637(a)(15)).

24 (4) STATE PLANNING DIRECTOR.—The term  
25 “State planning director” means a State official des-

1       ignated by statute or by the chief executive officer  
 2       of the State whose principal responsibility is the  
 3       drafting and updating of State guide plans or guid-  
 4       ance documents that regulate land use and develop-  
 5       ment on a statewide basis.

6           (5) LOCAL PLANNING DIRECTOR.—The term  
 7       “local planning director” means a local official des-  
 8       ignated by statute, by the mayor, or by the city  
 9       council whose principal responsibility is the drafting  
 10      and updating of local comprehensive plans or guid-  
 11      ance documents that regulate land use and develop-  
 12      ment within the local government’s jurisdiction.

13          (6) TRIBAL GOVERNMENT.—The term “tribal  
 14      government” means the tribal government of an In-  
 15      dian tribe, as defined in section 4 of the Indian Self-  
 16      Determination and Education Assistance Act (25  
 17      U.S.C. 450b).

18 **SEC. 4 SAFE COMMUNITIES PLANNING RESEARCH.**

19       (a) RESEARCH PROGRAM AUTHORIZED.—The Sec-  
 20      retary of Homeland Security, in coordination with govern-  
 21      mental, nongovernmental, university, and commercial  
 22      partners, shall conduct research and analysis of the best  
 23      practices in comprehensive land use and community plan-  
 24      ning that aims to reduce threats posed by natural hazards  
 25      and acts of terrorism, focusing on—

1           (1) the integration of Federal facility security  
2           with local and regional plans, codes, and regulations;

3           (2) examination of the impacts of security  
4           strategies, facilities, and design on the overall phys-  
5           ical and social environment of a community, includ-  
6           ing the functionality and accessibility of its streets,  
7           neighborhoods, civic and commercial building, and  
8           public spaces; and

9           (3) integration of comprehensive mapping and  
10          risk-assessment tools and strategies.

11          (b) REPORT TO CONGRESS.—Not later than 2 years  
12          after the date of enactment of this Act, the Secretary shall  
13          report to Congress on best practices in community security  
14          and safety planning, including—

15               (1) an evaluation of land use and development  
16               codes and ordinances that aim to reduce the risks  
17               posed by natural hazards and acts of terrorism;

18               (2) an evaluation of software and other tools  
19               that have been developed to aide communities in  
20               planning for safe development;

21               (3) an evaluation of codes, ordinances, security  
22               design standards, and design tools that aim to en-  
23               courage safe planning in the siting and design of  
24               residential development; and

1           (4) evaluation of best practices in incorporating  
2       safety and security into infrastructure planning, in-  
3       cluding water, wastewater, and storm water facili-  
4       ties, transportation systems, and electricity genera-  
5       tion and distribution facilities.

6   In determining best practices, the Secretary shall take into  
7   consideration regional, State, and local differences, and  
8   shall evaluate practices in terms of risk-reduction and  
9   cost.

10 **SEC. 5. AUTHORIZATION OF APPROPRIATIONS.**

11       There is authorized to be appropriated to carry out  
12   this section \$57,250,000 for each of the fiscal years 2007  
13   through 2011, of which —

14           (1) \$56,250,000 shall be used for making  
15       grants under section 3; and

16           (2) \$300,000 shall be used to carry out section  
17       4.

○